

PATENT COOPERATION TREATY

PCT

INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference SON040901PCT	FOR FURTHER ACTION		See Form PCT/PEA/416																								
International application No. PCT/EP2004/010165	International filing date (<i>day/month/year</i>) 10.09.2004	Priority date (<i>day/month/year</i>) 25.09.2003																									
International Patent Classification (IPC) or national classification and IPC H04L29/06, G06F17/30																											
Applicant SONY NETSERVICES GMBH et al																											
<ol style="list-style-type: none"> 1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36. 2. This REPORT consists of a total of 6 sheets, including this cover sheet. 3. This report is also accompanied by ANNEXES, comprising: <ol style="list-style-type: none"> a. <input type="checkbox"/> <i>sent to the applicant and to the International Bureau</i> a total of sheets, as follows: <ul style="list-style-type: none"> <input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis of this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions). <input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box. b. <input type="checkbox"/> <i>(sent to the International Bureau only)</i> a total of (indicate type and number of electronic carrier(s)) , containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions). 																											
<ol style="list-style-type: none"> 4. This report contains indications relating to the following items: <table style="width: 100%; border: none;"> <tr> <td style="width: 10%;"><input checked="" type="checkbox"/></td> <td style="width: 15%;">Box No. I</td> <td>Basis of the opinion</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. II</td> <td>Priority</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. III</td> <td>Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. IV</td> <td>Lack of unity of invention</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. V</td> <td>Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VI</td> <td>Certain documents cited</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Box No. VII</td> <td>Certain defects in the international application</td> </tr> <tr> <td><input checked="" type="checkbox"/></td> <td>Box No. VIII</td> <td>Certain observations on the international application</td> </tr> </table> 				<input checked="" type="checkbox"/>	Box No. I	Basis of the opinion	<input type="checkbox"/>	Box No. II	Priority	<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability	<input type="checkbox"/>	Box No. IV	Lack of unity of invention	<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement	<input type="checkbox"/>	Box No. VI	Certain documents cited	<input type="checkbox"/>	Box No. VII	Certain defects in the international application	<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application
<input checked="" type="checkbox"/>	Box No. I	Basis of the opinion																									
<input type="checkbox"/>	Box No. II	Priority																									
<input type="checkbox"/>	Box No. III	Non-establishment of opinion with regard to novelty, inventive step and industrial applicability																									
<input type="checkbox"/>	Box No. IV	Lack of unity of invention																									
<input checked="" type="checkbox"/>	Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement																									
<input type="checkbox"/>	Box No. VI	Certain documents cited																									
<input type="checkbox"/>	Box No. VII	Certain defects in the international application																									
<input checked="" type="checkbox"/>	Box No. VIII	Certain observations on the international application																									
Date of submission of the demand 21.03.2005		Date of completion of this report 22.08.2005																									
Name and mailing address of the international preliminary examining authority: <div style="display: flex; align-items: center;"> <div> European Patent Office D-80298 Munich Tel. +49 89 2399 - 0 Tx: 523656 epmu d Fax: +49 89 2399 - 4465 </div> </div>		Authorized Officer Agante da Silva, P Telephone No. +49 89 2399-																									



**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/010165

Box No. I Basis of the report

1. With regard to the **language**, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.

☐ This report is based on translations from the original language into the following language, which is the language of a translation furnished for the purposes of:

- ☐ international search (under Rules 12.3 and 23.1(b))
- ☐ publication of the international application (under Rule 12.4)
- ☐ international preliminary examination (under Rules 55.2 and/or 55.3)

2. With regard to the **elements*** of the international application, this report is based on *(replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report):*

Description, Pages

1-12 as originally filed

Claims, Numbers

1-18 as originally filed

Drawings, Sheets

1/4-4/4 as originally filed

☐ a sequence listing and/or any related table(s) - see Supplemental Box Relating to Sequence Listing

3. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).

- ☐ the description, pages
- ☐ the claims, Nos.
- ☐ the drawings, sheets/figs
- ☐ the sequence listing (*specify*):
- ☐ any table(s) related to sequence listing (*specify*):

* If item 4 applies, some or all of these sheets may be marked "superseded."

**INTERNATIONAL PRELIMINARY REPORT
ON PATENTABILITY**

International application No.
PCT/EP2004/010165

Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Yes: Claims	6-9,13-16
	No: Claims	1-5,10-12,17,18
Inventive step (IS)	Yes: Claims	
	No: Claims	1-18
Industrial applicability (IA)	Yes: Claims	1-18
	No: Claims	

2. Citations and explanations (Rule 70.7):

see separate sheet

Box No. VIII Certain observations on the international application

The following observations on the clarity of the claims, description, and drawings or on the question whether the claims are fully supported by the description, are made:

see separate sheet

Re Item V

Reasoned statement with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. The following document (D) is referred to in this communication; the numbering will be adhered to in the rest of the procedure:

D1: US-A1-2002133247

2. The present application does not meet the requirements of Article 33(1) PCT, because the subject-matter of **independent claims 1, 10, 17 and 18**, insofar they can be understood (see section VIII), is not novel in the sense of Article 33(2) PCT.

- 2.1 Document D1 discloses, according to the features of **claim 10**, a method to provide content with a content output device (see paragraph 3), comprising the steps of accessing content items from a first media source and providing an output corresponding to said content items (see paragraph 11 and paragraph 30); accessing at least one content item from at least one second media source (see paragraphs 29, 30, 46 and 47) and providing an output corresponding to said at least one content item (see paragraph 49) in case an output corresponding to said content items from said first media is requested (see paragraph 46).

- 2.2 Independent **claim 1** refers to the means for carrying out the method steps of claim 10. As these means are already disclosed in document D1 (see paragraphs 34-37 and 42-45), the same objections in paragraph 3.1 regarding lack of novelty are raised against independent claim 1.

- 2.3 The same reasoning as above applies, mutatis mutandis, to the subject-matter of the corresponding independent **claims 17 and 18** which therefore are also considered not novel.

3. The additional features of dependent **claims 2, 3, 4, 5, 11, 12** are already disclosed in document D1 and, consequently, do not fulfil the novelty requirements of Art. 33(1) and (2) PCT.

Claim 2: see paragraph 43 and Figure 3;

Claim 3: see Figure 1 and paragraph 31;

**INTERNATIONAL PRELIMINARY
REPORT ON PATENTABILITY
(SEPARATE SHEET)**

International application No.

PCT/EP2004/010165

Claim 4: see paragraph 44;
Claim 5: see paragraphs 30 and 31;
Claim 11: see paragraph 31;
Claim 12: see paragraph 44.

4. The additional features of dependent **claims 6, 7, 8, 9, 13, 14, 15 and 16** do not fulfil the requirements of Article 33(1) PCT and Article 33(3) PCT as they do not involve an inventive step.

The features wherein:

- a) the content provided by the first media source is faded out after an action from the user (claims 6 and 13);
- b) second media source is arranged within said content output device and provides content as a media file to the media player unit (claims 7 and 14);
- c) loading at least one content item from the second media source (claims 8 and 15)
- d) at least one content item is a jingle (claims 9 and 16);

are among customary activities carried out by a person skilled in the art of designing systems for playing multimedia content and, thus, can not be seen as involving an inventive step.

It should be noted that, regarding the additional features of claims 8, 14 and 15, further remarks are set forth in section VIII of this communication.

Re Section VIII

1. The application does not meet the requirements of Article 6 EPC, because independent **claims 1 and 10** are not clear. When interpreting the claimed feature wherein the "...media player is further adapted to access at least one second media source ... in case an output corresponding to said content items from said first media source is requested **and not possible or disrupted**", the reader from the wording used is left in doubt about the technical features involved therein. It was not possible to identify from the description the technical features which might correspond to the referred unclear terms. For this reason, the highlighted passage was ignored in order to proceed with the written opinion on claims 1 and 10 in the sense of Section V.

2. Independent **claim 17** does not comply with the clarity requirements of Article 6 PCT. The term "**or the like**" used in claim 17 is broad and vague rendering, consequently, the scope of the claim unclear.
3. Dependent **claims 4, 5, 6, 7, 8, 14, 15** do not comply with the clarity requirements of Article 6 PCT for the following reasons:
 - 3.1 dependent apparatus **claims 4, 5, 6 and 7** refer to features formulated using terms like "**...are buffered...**", "**...are personalized...**", "**...gets faded out...**", "**...provides...**". The mentioned claims are regarded as claims to an apparatus and not as claims to a method. Thus, in order to meet the requirements of Article 6 PCT with respect to clarity, the system claimed in claims 4, 5, 6 and 7 should be defined in terms of apparatus features and not by the steps of a method or process.
 - 3.2 **Claims 8 and 15** refer to the feature of downloading at least one content item provided from the second media source. As these claims depend on claims 7 and 14, respectively, and in these claims it is mentioned that the second media source is arranged within the content output device, by using the term "**downloading**" the reader is left in doubt as whether the second media source accesses a remote server for retrieving the content item or not. Moreover, the following wording "...content item that is provided by said second media source so that it can be provided by said second media source" from claim 15 is unclear and was ignored for the purpose of establishing an opinion in Section V.
 - 3.3 The term "**directly**" used in dependent claim 14 is vague and unclear and leaves the reader in doubt as to the meaning of the technical feature to which it refers, thereby rendering claim 14 unclear. Despite this objection and as far as some of the technical features could be understood, an assumption has been made in order to define the technical features that might be comprised in the claimed invention (see Section V).